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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,705	06/29/2001	Hao A. Chen	3063.0398-01	3770

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EXAMINER

DIXON, MERRICK L

ART UNIT

PAPER NUMBER

1774

DATE MAILED: 10/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER

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This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is FINAL.
- ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-5, 7, 9-59 is/are pending in the application.
- Of the above, claim(s) 14-29, 54-59 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-5, 7, 9-13 and 30-53 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 3
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

MERRICK DIXON
PRIMARY EXAMINER

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-5, 7, 9-13 and 30-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shultz et al(5670237) alone.

The cited reference teaches the basic claimed invention including a resilient surface covering having improved wear and/or stain resistance comprising a wear layer comprising radiation or electron beam curable urethane based acrylate and aluminum material comprising specific sizes and weight percentage- col 6, lines 59-65; col 3, lines 5-32; col 4, lines 9-41; col 7, lines 39-44; col 9, lines 23-35; col 10, lines 35-39. It is submitted that it would have been obvious to include such well known material as aluminum oxide, if not taught and in the absence of unexpected results.

Concerning claims 33,34,39, and 48 the cited reference teaches such limitations in col 7, lines 39-44. Concerning claims 42,43 and 51, the cited reference teaches the claimed limitations in col 3, lines 58-61. Concerning claims 32,38,5, 44,51 and 47, the reference teaches the claimed limitations- see reference. The reference also teaches the limitations of claims 30,35,37,40,41 and 49- see entire reference.

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Applicant's election with traverse of claims 1-5,7,9 and 9-13 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that the examiner has not shown that there would be a serious burden to examine all the claims. This is not found persuasive and to this the examiner would respond and directs applicants to the separate classification of same claims. It would indeed be burdensome to the examiner to perform searches for the separate classes of the invention.

The requirement is still deemed proper and is therefore made FINAL.

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Claims 14-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Witman(4983466) and Moran(5091258) are cited of interest for their respective teachings and to show the state of the art.

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Crystal Plaza Three Fax Center

A facsimile center has been established in Crystal Plaza 3. The hours of operations are Mondays through Friday, 8:45 to 4:45 PM. This new location should be used in all instances when faxing any correspondence to Group 1700. The Patent Examining Fax Center new telecopier numbers are (703) 305-3599 for all After Finals and 703-305-5408 for all others. Use of the new Crystal Plaza 3 center will facilitate rapid delivery of materials to the group. The faxing of all papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989).

New! Applicants who wish to send a facsimile (draft copies) for the examiner's immediate review can now do so by using the Examiner Dixon's personal fax number at 703-872-9514. **NOTE: All facsimiles sent to the examiner's personal fax number should be in draft-forms and will be treated as informal. Same facsimiles will not be entered in the related applications unless otherwise noted by the examiner.**

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the receptionist whose number is (703)308-2351.

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Any questions concerning the instant communication should be directed to Examiner Dixon, at
703-308-0013, Mondays to Thursdays, between 12 noon and 6 PM, eastern time .

A handwritten signature in black ink, appearing to read "Merrick Dixon". The signature is fluid and cursive, with the first name "Merrick" written in a larger, more prominent script than the last name "Dixon".

Merrick Dixon

Primary Examiner

Group 1700